

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2006):  
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO  
CERTAIN APPAREL OF COMPACTED, PLIED,  
RING-SPUN COTTON YARNS  
(REQUEST FOR REVOCATION)**

Investigation No. 332-473-001

February 2006



# Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

## U.S. International Trade Commission Investigation No. 332-473-001

Products	Certain apparel of compacted, plied, ring-spun cotton yarns (request for revocation)
Requesting Parties	National Council of Textile Organizations, Washington, DC
Date of Commission Report: USTR Public	February 28, 2006 February 2006
Commission Contact	Jackie W. Jones (202-205-3466; <a href="mailto:jackie.jones@usitc.gov">jackie.jones@usitc.gov</a> )

### NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 28, 2006. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (\*\*\*) .

### Summary of findings

The Commission's advice in this report relates to a petition filed by the National Council of Textile Organizations (NCTO)<sup>1</sup> and received by the Committee for the Implementation of Textile Agreements (CITA) on January 10, 2006, requesting that CITA revoke its September 29, 2005 determination regarding compacted, plied, ring-spun cotton yarns (the subject yarns).<sup>2</sup> In that determination, CITA found that the subject yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated woven cotton trousers, shirts, and blouses made from U.S.-formed fabric containing the subject yarns as eligible for duty-free treatment under the "commercial availability" provisions of the Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Enforcement Act (ATPDEA).<sup>3</sup> NCTO states in its petition that it is requesting revocation of the prior determination because yarns substitutable for the subject yarns can be supplied by the domestic industry in commercial quantities in a timely manner. If CITA revokes its previous determination, U.S. imports of woven cotton trousers, shirts, and blouses made in CBTPA and ATPDEA countries from U.S.-formed fabric containing the subject yarns would no longer be eligible to enter free of duty under the CBTPA and ATPDEA.

The Commission could not identify any U.S. production of the subject yarns, and the available information suggests that combed, plied, ring-spun cotton yarns (the conventional yarns) made domestically would not be substitutable for the subject yarns. Therefore revocation of the above-referenced CITA determination would likely have no effect on U.S. producers of the conventional yarns, but it could have an adverse effect on the one U.S. producer the Commission has identified as producing fabric containing the subject yarns. The apparel companies and retailers importing the woven cotton trousers, shirts, and blouses and other textile industry sources stated that the use of the subject yarns, not the use of the conventional

<sup>1</sup> NCTO is a Washington, DC-based lobbying group representing the fiber, yarn, fabric, and supplier industries. NCTO opposed the original petition.

<sup>2</sup> The Commission provided advice on the original petition in its report entitled *Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, "Certain Apparel of Compacted, Plied, Ring Spun Cotton Yarns" (Inv. No. 332-465-008), June 30, 2005.

<sup>3</sup> See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

yarns, would impart the characteristics to the finished garments they require in terms of surface appearance, durability, and hand (feel to the touch). \*\*\* Revocation of the previous CITA determination would likely reduce demand for U.S.-formed fabric containing the subject yarns and, in turn, could adversely affect Swift Galey, Atlanta, GA, the U.S. producer of the fabric, and its workers. (Galey & Lord, the predecessor to Swift Galey, was the petitioner of record in the previous CITA determination regarding the subject yarns).<sup>4</sup>

## Background

On February 16, 2006, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-473, *Commercial Availability of Apparel Inputs (2006): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).<sup>5</sup> Under this investigation, the Commission provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2006 with CITA under the commercial availability provisions of the African Growth and Opportunity Act (AGOA), the CBTPA, and the ATPDEA.

## Discussion of the products

The subject yarns are compacted, plied, ring-spun cotton yarns of metric yarn numbers 42 to 102 (25 to 60 English cotton count) and covered by statistical reporting numbers 5205.42.0020, 5205.43.0020, 5205.44.0020, 5205.46.0020, and 5205.47.0020 of the Harmonized Tariff Schedule of the United States (HTS),<sup>6</sup> which provide for multiple (folded) yarn of combed and uncombed fibers (other than sewing thread), containing 85 percent or more by weight of cotton, and not put up for retail sale.<sup>7</sup> The U.S. general rates of duty on such yarns range from 6.5 percent to 12 percent ad valorem, depending on yarn count. The woven cotton trousers, shirts, and blouses made from fabric containing the subject yarns are classified in HTS chapter 62 (apparel, not knitted or crocheted) and are subject to U.S. general rates of duty ranging from 15.4 percent to 19.7 percent ad valorem.

According to the original petition filed in May 2005 by AM&S Trade Service, L.L.C., on behalf of Galey & Lord (predecessor to Swift Galey),<sup>8</sup> a U.S. fabric producer based in Atlanta, GA, the subject yarns are made on compact ring-spinning frames using a process that avoids the conventional “spinning triangle.”<sup>9</sup> During the spinning process, air suction and compaction are used to condense the fibers, causing them to lie closer together and parallel with each other, resulting in a smooth, tight yarn that has less hair between

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<sup>4</sup> The previous CITA determination specifies that the fabric containing the subject yarns and used in the production of woven cotton trousers, shirts, and blouses in CBTPA and ATPDEA countries must be made in the United States, regardless of the source of the yarns, in order for the garments to qualify for duty-free treatment under the CBTPA and ATPDEA. See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

<sup>5</sup> For more information on the investigation, see the Commission’s website at [www.usitc.gov/ind\\_econ\\_ana/research\\_ana/pres\\_cong/332/short\\_supply/shortsupintro.htm](http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm).

<sup>6</sup> See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

<sup>7</sup> The HTS calls plied yarns “multiple” or “folded” yarns.

<sup>8</sup> More information on these yarns may be found in *Commercial Availability of Apparel Inputs (2005): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, “Certain Apparel of Compacted, Plied, Ring Spun Cotton Yarns,” USITC Inv. No. 332-465-008, pp. 2-3. Information in this and the following paragraph is from the petition reviewed in the investigation noted in the previous sentence and telephone interviews by Commission staff with Carlos Moore, President, AM&S Trade Service, L.L.C., June 14, 2005, and Jan. 30, 2006; Al Blalock and Dennis Gilrain, Managing Director-Sportswear, Swift Galey, June 14, 2005, and Feb. 7, 2006; and \*\*\*.

<sup>9</sup> In the conventional ring spinning process, a weak zone known as the “spinning triangle” is formed between the clamping line and the point of twist insertion by the ring spindle. In this zone, outlying fibers may not be fully integrated into the yarn, resulting in protruding fibers or yarn hairiness. The “spinning triangle” is nearly eliminated in the compact spinning process.

the fibers. The process removes short fibers from the yarn, reduces undesirable yarn hairiness, and increases yarn strength. Fabrics woven with the subject yarns have a lustrous, smooth, look and feel, and increased pilling resistance.

A source representing Swift Galey stated that the firm uses the subject yarns to weave fabrics in the United States and then ships the fabrics to customers that arrange for the fabrics to be cut and sewn into trousers, shirts, and blouses in CBTPA and ATPDEA countries. \*\*\*

NCTO states in its petition for revocation that the subject yarns used by Swift Galey “could be made by methods other than compacting, including methods currently used by U.S. industry to produce large quantities of the conventional yarns with the requested yarn counts.”<sup>10</sup> NCTO also expresses concern that CITA’s determination that the subject yarns of metric yarn numbers 42 to 102 cannot be supplied by the domestic industry in commercial quantities in a timely manner will set a precedent for CITA to designate compacted yarns of other yarn counts as being commercially unavailable. The NCTO petition states that U.S. yarn producers export yarns to countries participating in U.S. trade preference programs and that designating the subject yarns as commercially unavailable could jeopardize the firms’ markets in eligible countries participating in the North American Free Trade Agreement (NAFTA), the proposed CAFTA, and the ATPDEA.

The NCTO petition presents new information--two reports by two different laboratories that compared the appearance of two fabric swatches as well as individual yarns isolated from the fabric swatches, one made of the subject yarns and the other made of conventional ring-spun cotton yarns.<sup>11</sup> In both cases, these independent laboratories reported that when viewing the swatches and yarns under a microscope, there were no noticeable visible physical differences between the two. Neither laboratory tested the samples for differences in physical or performance characteristics.<sup>12</sup>

## **Discussion of affected U.S. industries, workers, and consumers**

### ***Apparel producers***

As in the original review regarding the subject yarns, it appears that the trousers and shirts manufactured domestically are generally produced for the U.S. military or by U.S. companies that make custom products or small quantities of apparel to augment their import lines for replenishment purposes.<sup>13</sup> Most U.S. apparel companies produce or source apparel worldwide, often making the same style garments, for example, in Asian countries, Mexico, and the Caribbean Basin. \*\*\*

Following CITA’s determination that the subject yarns are commercially unavailable domestically, several apparel companies and retailers said they have been working with Swift Galey to develop a cost effective sourcing program to produce the specified garments in eligible CBTPA and ATPDEA countries.<sup>14</sup> They indicated that, in the absence of the CITA determination regarding the subject yarns, they would source the fabrics from, and make the garments in, Asia, where the subject yarns are made. Levi Strauss & Co. stated that the use of Swift Galey’s U.S.-formed fabrics containing the subject yarns would be an addition

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<sup>10</sup> NCTO, petition to CITA, Jan. 6, 2006.

<sup>11</sup> NCTO, petition to CITA, Jan. 6, 2006, Attachments.

<sup>12</sup> Gary R. Gamble, U.S. Department of Agriculture (USDA), Agricultural Research Service, Cotton Quality Research Station, and Sam Buff, Textile Testing Specialist, Center for Applied Textile Technology, telephone interviews by Commission staff, Feb. 6 and Feb. 7, 2006, respectively.

<sup>13</sup> Stephen Lamar, American Apparel & Footwear Association (AAFA), telephone interview by Commission staff, Apr. 26, 2005, and e-mail correspondence to Commission staff, June 14, 2005.

<sup>14</sup> Submissions to CITA from GAP, Inc.; Phillips-Van Heusen Corp.; Perry Ellis International; Levi Strauss & Co.; JCPenney Purchasing Corp.; AAFA; and the U.S. Association of Importers of Textiles and Apparel (USA-ITA).

to their sourcing strategy and would not displace purchases from any other U.S. fabric sources.<sup>15</sup> GAP, Inc. stated that it plans to market the garments under their Banana Republic and GAP brands and anticipates shifting some production from Asia to the Dominican Republic, which would improve their sourcing efforts and “worldwide balance.”<sup>16</sup> Submissions from Perry Ellis International, JCPenney, and Phillips Van-Heusen stated that producing garments of the subject yarns in the Caribbean Basin will enable them to achieve the competitive speed to market advantages needed in today’s apparel market.<sup>17</sup> Phillips-Van Heusen stated that it also plans on shifting some future apparel sourcing from Asia to the Caribbean Basin.<sup>18</sup> JCPenney stated that without the short supply designation on the subject yarns, producing the specified garments in the Caribbean Basin would not be cost-effective and that it would be forced to source all these garments from Asia.<sup>19</sup>

Regarding possible substitutes, U.S. apparel companies submitting statements to CITA indicated that trousers, shirts, and blouses made of woven fabrics containing the subject yarns have a better hand, comfort, drape, and appearance on the retail shelf or in the retail store than can be obtained by using any other type of yarn. They consider the subject yarns to be of a higher quality than the conventional yarns and indicated that the fabrics are or will be used in the production of the specified garments in the higher priced segments of their apparel lines. In its submission to CITA, JCPenney indicated that it intends to upgrade its line of 100-percent cotton twill pants and shorts sold under its St. John’s Bay brand by using Swift Galey’s fabrics of the subject yarns. The submission further stated that the conventional yarns described in NCTO’s petition are not acceptable.<sup>20</sup> The submission stated that the choice of fabric is based mostly on customer preference and that the subject yarns provide a better appearance and are more comfortable for consumers. Furthermore, the subject yarns are “unique,” woven into a fabric having a “distinct texture, look, feel, and wear characteristics.” Phillips-Van Heusen stated that successful marketing of apparel cannot depend upon close substitutes. In the production of its garments, if Phillips-Van Heusen needs “dyed yarns of a specific count, the company cannot and will not accept ‘close substitutes.’”<sup>21</sup>

### ***Fabric producers***

As in the original review of the petition regarding the subject yarns, the Commission did not identify any U.S. producers of fabrics made from the subject yarns, other than Swift Galey. Since CITA determined that the subject yarns are commercially unavailable, \*\*\*\*22\*\*\*23\*\*\*

\*\*\*\*24\*\*\*25\*\*\* An official of \*\*\*\*26

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<sup>15</sup> Trevor Rhodes, Vice-President, Product Management, Levi Strauss & Co., submission to CITA, Feb. 2, 2006.

<sup>16</sup> Jeff Frye, Vice-President, General Manager, Sourcing & Vendor Development Americas, GAP, Inc., submission to CITA, Jan. 26, 2006.

<sup>17</sup> Karen Driks, Vice-President Merchandising, Bottoms Division, Perry Ellis International, submission to CITA, Feb. 2, 2006, p. 1.

<sup>18</sup> Ted Sattler, Group Executive Vice President, Foreign Offices, Phillips-Van Heusen Corp., submission to CITA, Feb. 3, 2006, p. 1.

<sup>19</sup> Peter M. McGrath, Chairman, JCPenney Purchasing Corp., submission to CITA, Feb. 1, 2006, pp. 1-2.

<sup>20</sup> Ibid., p. 1.

<sup>21</sup> Ted Sattler, Group Executive Vice-President, Foreign Offices, Phillips-Van Heusen Corp., submission to CITA, Feb. 3, 2006, pp. 1-2.

<sup>22</sup> Information in this paragraph is from telephone interviews by Commission staff with \*\*\*

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Regarding possible substitutable yarns, \*\*\*<sup>28</sup> A source representing Swift Galey stated that the subject yarns in fabrics used in the specified garments differentiates the apparel in the retail market place as the garments have a more brilliant color, sharper prints, a sheen or luster, and in general, a better appearance on retail displays, as well as a softer hand or feel than garments made of the conventional yarns. He said product differentiation is a primary tool in today's highly competitive apparel market and cited examples of existing research that documents "the differences between the subject yarns and the conventional yarns."<sup>29</sup>

### **Yarn producers**

The Commission could not identify any U.S. production of the subject yarns, and the information available indicates that there is limited capacity to produce such yarns domestically. \*\*\*<sup>30\*\*\*31\*\*\*32</sup>

In its submission to CITA, Buhler Quality Yarns Corp., Jefferson, GA,<sup>33</sup> a domestic manufacturer of high-quality yarns, including fine-count, combed ring-spun yarns, stated that conventional yarns made with extra-long staple fibers look, feel, and have performance characteristics "on par" with the subject yarns.<sup>34</sup> \*\*\*<sup>35</sup> The siro spun yarns have "excellent yarn strength, a smooth yarn surface, minimal hairiness and an especially round yarn cross section;" characteristics similar to the subject yarns.<sup>36</sup> This official believes that the performance of fabrics made of these two types of conventional yarns "surpasses" that of fabrics made with the subject yarns.<sup>37</sup> He explained that today's subject yarns are made of lower grade cotton or shorter staple cotton, which leads to lower wash and wear performance. This assertion was refuted by \*\*\*<sup>38</sup>. The Buhler official further stated that Buhler has the domestic capacity to supply Swift Galey with the conventional yarns.<sup>39</sup>

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An official of R. L. Stowe Mills, Inc., Belmont, NC, stated that it produces 300,000 pounds of conventional yarn, per week, which have a "higher strength and improved fabric appearance because of the combing and plying processes."<sup>41</sup> He stated that the firm produces conventional yarns for use in jacquard woven fabrics for upholstery, bed and bath textile products, and hosiery—all important textile products that are still produced domestically." He stated that the substitutability of the conventional yarns for the subject yarns depends on many variables and that the subject yarns may be inferior, equal, or better in quality than the conventional ring-spun yarns produced by Stowe depending on the quality of fibers used. He concluded that the "term compact does not differentiate the product."

Both \*\*\* and the Stowe officials cited the lab tests included in NCTO's petition as evidence that the subject yarns and the conventional yarns are undistinguishable in appearance.

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<sup>29</sup> Carlos Moore, President, AM&S Trade Service, L.L.C., submission to CITA, pp. 2-3.

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<sup>33</sup> A subsidiary of Hermann Buhler AG (Switzerland).

<sup>34</sup> Werner Bieri, President and Chief Executive Officer, Buhler Quality Yarns Corp., submission to CITA, Feb. 3, 2006, p. 3.

<sup>35</sup> \*\*\*

<sup>36</sup> Werner Bieri, President and Chief Executive Officer, Buhler Quality Yarns Corp., submission to CITA, Feb. 3, 2006, p. 2.

<sup>37</sup> Ibid., p. 3.

<sup>38</sup> \*\*\*

<sup>39</sup> Werner Bieri, President and Chief Executive Officer, Buhler Quality Yarns, Corp., submission to CITA, Feb. 3, 2006, p. 6.

<sup>40</sup> \*\*\* , e-mail to Commission staff, Feb. 3, 2006.

<sup>41</sup> Information in the paragraph is from D. Harding Stowe, President and CEO, R. L. Stowe Mills, Inc., submission to CITA, Feb. 3, 2006.

An official of Parkdale Mills, a large U.S. yarn spinner, stated that you cannot tell the difference between the subject yarns and the conventional yarns, especially when the yarns are 2-ply.<sup>42</sup> \*\*\*43\*\*\* Parkdale's submission to CITA stated that extra long staple fiber must be used to achieve the full benefit of compacting yarns and that most of the subject yarns used today are typically not made with extra long staple cotton fibers.<sup>44</sup>

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A study by Cotton Incorporated stated that using the subject yarns can result in a softer hand, smoother appearance, and better wear than the conventional yarns, but may be more expensive than the conventional yarns.<sup>46</sup>

A study by the Department of Spinning Technology and Yarn Structure, Technical University of Lodz, Poland, determined that the subject yarns have better smoothness, higher luster, less hairiness, and greater tenacity and elongation than the conventional yarns.<sup>47</sup>

### **Probable economic effect advice<sup>48</sup>**

The Commission could not identify any U.S. production of the subject yarns. Regarding substitutability of the conventional yarns for the subject yarns, industry, trade, and academic sources generally suggest that the subject yarns possess different physical properties that result in fabrics with a different look, feel, and performance than fabrics made of the conventional yarns. The apparel companies and retailers, the potential consumers of U.S. woven fabrics made of the subject yarns, stated that the use of the subject yarns, not the use of the conventional yarns, would impart characteristics to the finished garments that they require in terms of surface appearance, durability, and hand (feel to touch). These apparel companies and retailers indicated that rather than substitute the U.S.-made conventional yarns for the subject yarns if CITA revokes its determination, they will continue or begin producing the specified garments in Asia where the subject yarns are available. Further, some of the apparel companies stated that the specified garments made in CBTPA and ATPDEA countries must have the same characteristics as those made in Asia, where production of the subject yarns occurs, because the garments from both continents are sold side-by-side at retail. Therefore, revoking the trade preferences would likely have no effect on U.S. producers of the conventional yarns.

Revocation of the previous CITA determination would likely reduce demand for U.S.-formed fabric containing the subject yarns and, in turn, could adversely affect Swift Galey, Atlanta, GA, the U.S. producer of the fabric, and its workers (Galey & Lord, the predecessor of Swift Galey was the petitioner of record in the previous CITA determination regarding the subject yarns).<sup>49</sup>

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<sup>42</sup> Anderson D. Warlick, Parkdale Mills, submission to CITA, Feb. 3, 2006.

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<sup>44</sup> Anderson D. Warlick, Parkdale Mills, submission to CITA, Feb. 3, 2006, p. 2.

<sup>45</sup> \*\*\*

<sup>46</sup> Cotton Incorporated, *Inside Cotton*, "An ElitTe Alternative for Higher Quality, Lower Cost Ring Spun Yarns," found at <http://www.cottoninc.com/InsideCotton/ElitTeAlternativeRingSpunY>, retrieved Jan. 30, 2006.

<sup>47</sup> Tadeusz Jackoski, Danuta Cyniak, and Jerzy Czekalski, Technical University of Lodz, Faculty of Textile Engineering and Marketing, Department of Spinning Technology and Yarn Structure, "Compact Cotton Yarn," *Fibres & Textiles in Eastern Europe*, Oct./Dec. 2004, pp. 22-26, found at [http://www.fibtex.lodz.pl/48\\_08\\_22.pdf](http://www.fibtex.lodz.pl/48_08_22.pdf), retrieved June 27, 2005.

<sup>48</sup> The Commission's advice is based on information currently available to the Commission.

<sup>49</sup> The previous CITA determination specifies that the fabric containing the subject yarns and used in the production of woven cotton trousers, shirts, and blouses in CBTPA and ATPDEA countries must be made in the United States, regardless of the source of the yarns, in order for the garments to qualify for duty-free treatment under the CBTPA and ATPDEA. See the CITA notice in the *Federal Register* of Oct. 5, 2005 (70 F.R. 58190).

Because the subject yarns have been determined not to be commercially available prior to the implementation date for CAFTA, the subject yarns would also be considered not commercially available for purposes of CAFTA<sup>50</sup> and U.S. imports of apparel made in CAFTA countries from the subject yarns would be eligible for duty-free treatment. Under such a scenario, the potential effects on the U.S. industry are unknown, but are likely to be similar to the effects of granting duty-free treatment to U.S. imports of the subject garments from CBTPA and ATPDEA beneficiary countries as many of the major supplying countries are covered under the CAFTA. If the underlying determination in this investigation is revoked, then the above analysis is not applicable.

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<sup>50</sup> CAFTA, Chapter Three, National Treatment and Market Access for Goods, Article 3.25: Rules of Origin and Related Matters, 4(e). As of the preparation of this report, the implementation of CAFTA has not been announced.